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ABSTRACT

This handbook is intended to provide California district governing boards and professional educators with information, sample forms, and policy statements necessary for compliance with the new laws dealing with pupil records. This guide is based on the most recent legislation (such as the California Public Records Act), and it covers areas such as pupil record categories, access to records, directory information, transfer of record information, annual notification to parents of school district policy, special education records, district policies and procedures, and community college record requirements. Sample forms for authorization to release pupil information, request to correct or remove information, parent notification, and others are included. The text of relevant laws and codes is also appended. (Author/DS)

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A Handbook Regarding the Privacy and Disclosure of Pupil Records

EA 010 375

CALIFORNIA STATE DEPARTMENT OF EDUCATION
Wilson Riles, Superintendent of Public Instruction
Sacramento, 1978

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FOREWORD

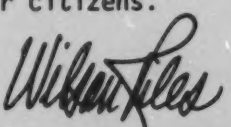
Historically, California schools have maintained a balanced perspective regarding parental access to a child's school records, and generally the schools have restricted access to those records by persons other than parents and school officials. However, recent state and federal laws have forced school districts to reexamine their policies and procedures regarding the kinds of information that they have collected and maintained. These laws have also placed severe, but necessary, restrictions on the release of such information.

This handbook, developed by the Department of Education's Pupil Personnel Services Unit, was designed to help clarify the requirements of the Education Code and the administrative regulations which pertain to pupil records. I am especially grateful for the encouragement and assistance given to us in the publication of this document by the Council of Chief State School Officers Military Liaison Project and the California military representatives to the project.

District-level administrators are encouraged to review this publication and, if necessary, to revise their existing policies and procedures or to develop new ones that are in compliance with the new state and federal requirements. Principals, teachers, and others at the school level are encouraged to use the information in this handbook as a guide in protecting the privacy of parents and students. In addition all school district personnel should take responsibility for a comprehensive dissemination of information to parents and students regarding the privacy of, and access to, pupil records. Through such efforts school district credibility can be reenforced, and significant levels of mutual trust and respect can be achieved.

However, even though it is imperative to protect the privacy rights of students and parents, it is just as vital to develop policies within the law that will not needlessly restrict services or work to the disadvantage of students. Certainly, cooperation should be extended to personnel who are assisting youth with career planning, occupational counseling, and other important areas.

We have made significant gains in the past few years in protecting the privacy rights of our students and their parents, and it is my hope that we will continue, through the publishing of documents like this one and other actions, to protect the private lives of our citizens.



Superintendent of Public Instruction

PREFACE

This handbook is the result of significant changes in laws relating to the collection, maintenance, and dissemination of pupil records. These changes have come about--in major part--because of a feeling that too many persons responsible for pupil records were keeping confidential information from rather than for their clientele. Public Law 93-380 included amendments by New York Senator Buckley which have become the focus of parental and pupil rights with respect to pupil records information.

An effort has been made to offer a document that will provide school district governing boards and professional staff members information, sample forms, and policy statements important to compliance with the new laws dealing with pupil records.

We are indebted to the Office of the San Diego County Superintendent of Schools for its assistance in the development of the handbook, with special credit to Daniel H. Nasman, Guidance Coordinator in that office, for his work as the major author.

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INTRODUCTION AND OVERVIEW

This handbook is designed to simplify the development and maintenance of student records -- a task which is frequently made to appear overly complex. Spelling out the basic concepts of privacy and access is the major goal of this publication. The specific requirements for record development and destruction are clearly outlined in California laws and regulations. Since state law is in basic compliance with federal requirements, this handbook will focus on the application of Education Code Sections 49000-49078 (new), Title 5, California Administrative Code Sections 430-450 and 16020-16029 and Government Code Sections 6250-6260. By following the interpretations and procedures outlined in this handbook, school district personnel can achieve conscientious and reasonable compliance with the varying laws and regulations.

In presenting the privacy rights of parents and students, information is organized in accordance with the following topics and order:

* DEFINITIONS of *access; confidentiality; custodian of the records; directory information; eligible student; parents and guardians; public records;* and *pupil records*;
* THE PUBLIC RECORDS ACT as it pertains to school records;
* RECORD CLASSIFICATION AND DESTRUCTION;
* DIRECTORY INFORMATION;
* OTHER NON-PUPIL-RECORD CATEGORIES - including informal "desk-drawer" notes and information not drawn from existing pupil records;
* PUPIL RECORD CATEGORIES - Mandatory Permanent, Mandatory Interim, and Permitted Pupil Records -- including recommendations for the development of district pupil record systems;
* ACCESS TO RECORDS - including that which is mandatory, optional and prohibited along with the stipulations regarding access provisions;
* TRANSFER OF RECORD INFORMATION - between agencies -- particularly schools of new attendance and agencies requesting or providing sensitive reports;
* CORRECTION OR REMOVAL OF INFORMATION - including criteria and procedures;

* ANNUAL NOTIFICATION;

* DISTRICT POLICIES AND PROCEDURES - including those required for compliance with laws and regulations;

* SPECIAL EDUCATION RECORDS; and

* COMMUNITY COLLEGE REQUIREMENTS.

In addition, this handbook provides suggested forms to implement the areas cited above. Pertinent sections of the Education Code and Title 5 of the California Administrative Code are included as references.

DEFINITIONS

ACCESS: A personal inspection and review of a record or an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record (E.C. 49061). Although the preliminary federal regulations included the right to receive a copy as "access," the final regulations indicate that a copy must be provided only if failure to provide a copy effectively precludes the parent or eligible student the opportunity to examine a record. This would obviously be the case where the parent or student is located some distance from the institution. In practice, a district would best serve all access needs by making copies available at a nominal charge. However, an individual always has the right to on-site access at no cost and with competent assistance provided.

CONFIDENTIALITY: Withholding of information considered private. Under California law, this cannot apply to pupil records maintained for a K-12 student in so far as no record may be withheld from specified persons including parents or eligible students. (Post-secondary institutions may request an applicant to waive the right to examine the recommendations for admissions, employment or honors. Acceptance cannot be conditional upon the waiver. It is important to note that if a secondary school official retains a copy of a recommendation which was forwarded to a post-secondary institution, the student or parent has access rights to that retained copy since it constitutes a pupil record within the K-12 school district.)

Related to confidentiality is the concept of privileged communication. Without developing an elaborate case, it is sufficient to indicate that although the federal law makes provisions for withholding medical or psychological records regarding the *treatment* of *eligible* students, California law extends such provision to post-secondary institutions only. In effect, this requires the K-12 district to permit authorized access to all records which it maintains, including those obtained from private agencies or locally developed reports from district psychologists or health personnel. In other words, all information maintained on a pupil is open to inspection by the parents of dependent students or to the student who is age 16 and past the tenth grade.

CUSTODIAN OF THE RECORDS: A Board-designated ceritficated employee who is charged with district-wide responsibilities for implementing Board policies relating to pupil records. The principal or certificated designee is responsible for implementation at the building level (5 CAC 431).

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DIRECTORY INFORMATION: One or more of the following items: student's name, address, telephone number, date and place of birth, major field of study, participation in officially-recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous public or private school attended by the student (Sec. 49061).

Directory information is not considered as a pupil record even though the same information may be included on the pupil record. (See elsewhere regarding the accessibility of directory information.)

ELICIBLE STUDENT: Federal regulations define an eligible student as age 18 or enrolled in an institution of post-secondary training. This definition is consistent with the provisions of state law (Sec. 49061) regarding accorded rights; however, Title 5, Section 430 defines eligible student as age 16 or older or who has completed the tenth grade -- the provisions whereby students gain access to their records. Since no other rights are accorded to this student age 16 or past the tenth grade, the first definition is used.

It should be noted that a student who is attending both a secondary school and an institution of post-secondary training is an eligible student. It should be noted also that a former student is granted the same rights as a student; however, an applicant who has never enrolled is not a student under the provisions of state or federal law.

PARENTS AND GUARDIANS: "Parent" means a natural parent, an adoptive parent, or legal guardian. If parents are divorced or legally separated, only the parent having legal custody of the pupil may challenge the content of a record pursuant to Section 49070, offer a written response to a record pursuant to Section 49072, or consent to release records to others pursuant to Section 49075, provided, however, that either parent may grant consent if both parents provide written notification to the school district that such an agreement has been made.

Two important elements must be emphasized: a) a natural parent has access rights without regard to custody (unless a court order specifies otherwise); and b) foster homes and licensed group homes do not necessarily have guardianship nor the rights of access or permission to release records which still reside with the parent. This usually requires the school district to obtain written permission from a parent or court before pupil record information is shared with the foster home or licensed group home. (This requirement has significance beyond the scope of this handbook in regard to the absent parent's rights and responsibilities in regard to special education considerations and required notifications.)

PUBLIC RECORDS: Includes "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency (including school districts) regardless of physical form or characteristics" (G.C. 6250-6260).

"Writing" means "handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents" (G.C. 6250-6260).

PUPIL RECORD: Any item of information directly related to an identifiable pupil other than directory information, which is maintained by a school district or required to be maintained by any employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm or other means.

"Pupil record" shall not include informal notes related to a pupil compiled by a school officer or employee which remain in the sole possession of the maker and are not accessible or revealed to any other person except a substitute. For purposes of this subdividion, "substitute" means a person who performs the duties of the individual who made the notes on a temporary basis, and does not refer to a person who permanently succeeds the maker of the notes in his or her position (Sec. 49061).

THE PUBLIC RECORDS ACT

The definitions of public records and pupil records rather definitively indicate that items of information retained by a school district or employee by whatever means of recording are covered by laws governing access, privacy and destruction.

As a general rule public records are open to inspection at all times during office hours of the school district and every citizen has a right to inspect any public record, except as otherwise provided. The school district may adopt regulations stating the procedures to be followed when making its records available in accordance with the California Public Records Act. However, it should be noted that the California Public Records Act does not require disclosure of records that are:

1. Preliminary drafts, notes, or interagency or intraagency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

2. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

3. Test questions, scoring keys, and other examination data used to administer an . . . academic examination. (This is interpreted to include test protocols for psychological examinations.);

4. Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege;

5. These specific exceptions do not prevent the school district from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

The specific prohibitions regarding pupil records are spelled out in Education Code Sections 49060 (new) et seq. The specific nature of the Education Code prevails over the more general nature of the Public Records Act.

Attention must be called to the fact that improper, willful destruction of public records -- including pupil records -- is a crime punishable

by imprisonment of 1 to 14 years. Special attention must be given to classification and destruction procedures. Also note that the exemption to disclosure which is based on privileged communication as defined in the Evidence Code is rarely applicable in a public school setting.

RECORD CLASSIFICATION AND DESTRUCTION

Pupil records – in fact, all school public records – are classified as continuing records until such time as their usefulness ceases. While they are continuing records their destruction is governed by a rather complicated set of guidelines. Certain items are specifically excluded from destruction restrictions. CAC Title 5, Section 16020 indicates that copies of originals, pupil passes, tardy slips, admit slips, notes from home, including verification of illness and individual memorandum between employees of the district, are not records and may be destroyed at any time.

Other pupil-related records are defined within three categories – mandatory permanent, mandatory interim, and permitted. (See below for a full explanation of each category.) Mandatory permanent pupil records become Class I permanent records when their usefulness ceases and, thus, are never destroyed. *Caveat:* These records, or a copy, are retained for every pupil who was ever enrolled in the district. A copy of the mandatory permanent records are forwarded for students who transfer. Mandatory interim records can be classified as Class I permanent or Class III disposable when their usefulness ceases. The superintendent or designee is responsible for the classification subject to governing board approval. If mandatory interim records are classified as disposable they are to be destroyed in accordance with CAC Title 5, Section 16029. This requires that they be retained for three years beyond the date of origination and that the state historian in the Secretary of State's office be notified of the pending destruction. If a mandatory interim record is no longer useful but a decision cannot be made as to whether it should be Class I permanent or Class II disposable, then it may be classified as Class II optional record and reviewed for classification a year later.

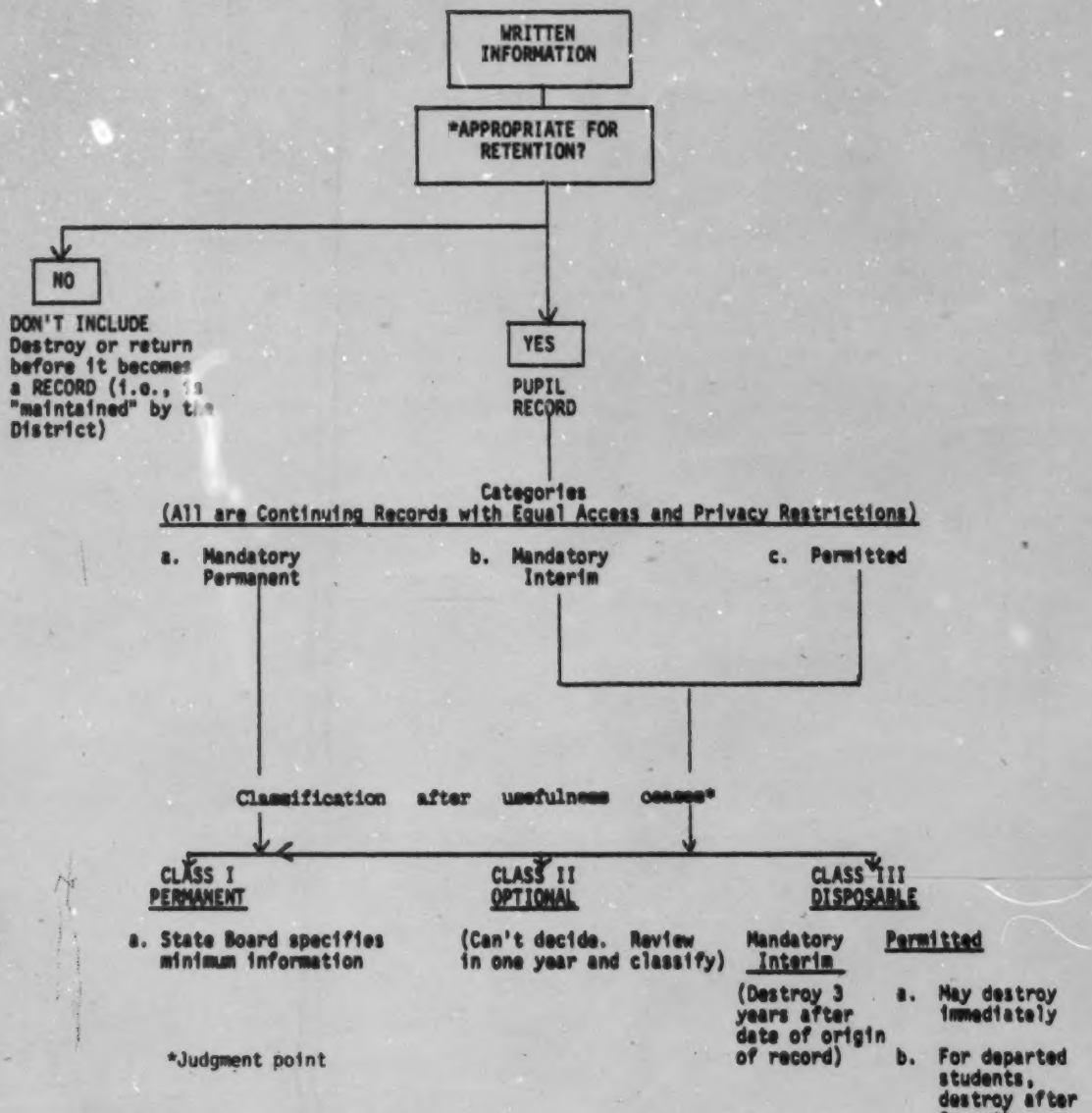
The third category of pupil records – permitted – may be destroyed whenever their usefulness ceases without the waiting period. However, if a student transfers, graduates, or otherwise terminates attendance, such records shall be held six months and then destroyed.

See Chart 1.

CHART 1

CLASSIFICATION OF PUPIL RECORDS

Note: Directory information and "desk drawer" notes to self are not pupil records


WRITTEN INFORMATION
*APPROPRIATE FOR RETENTION?
NO
DON'T INCLUDE
Destroy or return before it becomes a RECORD (i.e., is "maintained" by the District)
YES
PUPIL RECORD
Categories
(All are Continuing Records with Equal Access and Privacy Restrictions)
a. Mandatory Permanent
b. Mandatory Interim
c. Permitted
Classification after usefulness ceases*
CLASS I PERMANENT
a. State Board specifies minimum information
CLASS II OPTIONAL
(Can't decide. Review in one year and classify)
CLASS III DISPOSABLE
Mandatory Interim
(Destroy 3 years after date of origin of record)
Permitted
a. May destroy immediately
b. For departed students, destroy after 6 months
*Judgment point

DIRECTORY INFORMATION

Directory information is subject to board definition; however, in no case shall it be more than student's

name,

address,

telephone number,

date and place of birth,

major field of study,

participation in officially recognized activities and sports,

weight and height of members of athletic teams,

dates of attendance,

degrees and awards received, and

public or private school most recently attended.

Such information may be provided in accordance with local board policies but in no circumstance shall it be made available to a private, profit-making entity other than employers, prospective employers, or representatives of the news media. Names and addresses of graduating or terminating students may be provided to private schools or colleges.

The parent or eligible student shall be given an annual opportunity to prohibit the release of directory information to any otherwise eligible recipient.

Note also that the information pertains to students and not to parents or guardians. For instance, it is not permissible to release the name of the parent or the parent's address as directory information. Unless local policy specifically prohibits, the custodian of the records can authorize the release of directory information to such public entities as parent associations, Armed Services recruiting officers, police or probation officers, or elected officials. Release of directory information may be denied if such release is considered contrary to the best interest of the student.

Caution should be taken that so-called directory lists do not identify a student to a greater degree than the law permits. For instance, a list of gifted students would be prohibited in the same fashion as would a list of pregnant girls, or non-citizen children without immigration status, or failing students (i.e., don't publicly post final grades or test scores by student names). A notification which complies with the requirements of the law and a broad release policy is provided in the appendix.

OTHER NON-PUPIL-RECORD CATEGORIES

As shown above in definitions and discussions pertaining to pupil records and directory information, nearly all written information maintained by a school district constitutes a pupil record.

One way in which the district can restrict the accumulation of unnecessary student records is by the development of rather specific criteria whereby information is retained. For example, Title 5, Section 16010 specifies that copies of retained originals are not records nor are passes, tardy slips, notes from home (including illness verifications), instructional materials and individual memoranda between two staff members are not records and may be destroyed. A caution: They cannot be destroyed if they are maintained as records and a parent or student has a pending request to review them.

Directory information is not a pupil record. Neither is written information which exists as informal notes known solely to the maker or substitute. In essence, this latter proviso for "desk-drawer" notes permits a staff member to record observations or reminders without leaving them open to review by the parent or student. If the maker reveals the nature of the information to anyone other than a substitute, then the note becomes a record and is open to authorized access. It should be noted that the protected "desk-drawer" note is subject to subpoena and does not exist as a privileged or confidential note.

Federal law permits a law enforcement unit of an educational agency to exempt its records which are maintained solely for law enforcement and which are not disclosed to individuals other than those in the agency's law enforcement unit-- provided that the educational agency does not disclose its education records to the law enforcement unit. *California law makes no such provision for K-12 districts.*

Access logs (see discussion below regarding access) are subject to review only by the custodian of the records and the parent or eligible student.

Historically, many agencies had access to records which are no longer available to them under privacy restrictions. For example, law enforcement, adoption agencies, welfare, immigration and naturalization, probation, military intelligence, or elected officials are now restricted to directory information only -- and release of the directory information is also subject to further restriction by local policy and by parental request.

Since records are "written" -- broadly defined -- the agencies and persons cited above still have an opportunity to receive information

directly from staff members so long as the staff members do not consult the records to refresh a memory or confirm a hunch. In other words, a teacher could discuss a student with a probation officer so long as a student's record, including grades, is not utilized for the discussion. The only other restrictions upon the staff member's report are the personal and professional code of ethics.

PUPIL RECORD CATEGORIES

Prior to the advent of new pupil privacy legislation, California laws and regulations made ambiguous references to "cumulative" records without careful definition. Districts adopted a variety of postures regarding the types of information they believed was available to parents and to agencies. Often, sensitive reports were improperly withheld from parents and improperly released to agencies, who, in fact, were prohibited from access to pupil records -- federal law enforcement agencies serve as an example of those entities which have been prohibited from access to pupil records for several years.

A tightening of definitions occurred with the adoption of new Title 5 regulations in 1976. Pupil records are divided into three categories -- those which must be kept in perpetuity by a district, those which must be kept for a reasonable period before destruction and those which are kept only so long as they are considered useful. The first category was formerly designated as Permanent Enrollment and Scholarship Records and is now designated as

MANDATORY PERMANENT PUPIL RECORDS. The minimum information in this group is:

a) Legal name of pupil*
b) Date of birth
c) Method of verification of birth date
d) Sex of pupil
e) Place of birth
f) Name and address of parent of minor pupil
    1) Pupil's address, if different
    2) Annual verification of addresses
g) Entering and leaving date of each school year
h) Subjects taken
i) Grades and credits toward graduation
j) Immunizations or exemptions
k) Date of high school graduation or equivalent.

A board may stipulate additional information to be a permanent pupil record. This information will be maintained in perpetuity for every pupil ever enrolled in the district. This record, or a copy, must be forwarded for transfer students to, or from, any public or private school in California.

* Records should be kept in the student's legal name but the school is not prohibited from using another name if requested by the parent with custody. Legal name changes should be recorded only when an affidavit or other legal proof is provided.

MANDATORY INTERIM PUPIL RECORDS is the second category. It includes:

a) Access log
b) Health records
c) Special education programs
   1) Tests
   2) Forms
   3) Case studies
   4) Authorizations and actions
d) Language training records
e) Progress reports
f) Directory information prohibitions
g) Rejoinders to records
h) Other parental authorizations or prohibitions
i) Standardized tests less than three years old.

Such records shall be maintained only so long as they are necessary for compliance with laws and regulations. When no longer necessary or useful, the local board should classify them as Class I permanent records or Class II disposable records.

Mandatory interim pupil records must be forwarded to California public schools and may be forwarded to other schools when the pupil transfers. If not forwarded, they should be classified as disposable (if they are not classified as permanent).

PERMITTED PUPIL RECORDS, category 3, are those additional records maintained for appropriate educational purposes. They may include:

a) Objective staff ratings
b) Standardized tests more than three years old
c) Routine disciplinary data
d) Verified reports of relevant behavioral patterns
e) Disciplinary notices
f) Attendance records not otherwise required.

Such records shall be destroyed when their usefulness ceases or six months after a student withdraws or graduates. Such records may be forwarded to any school.

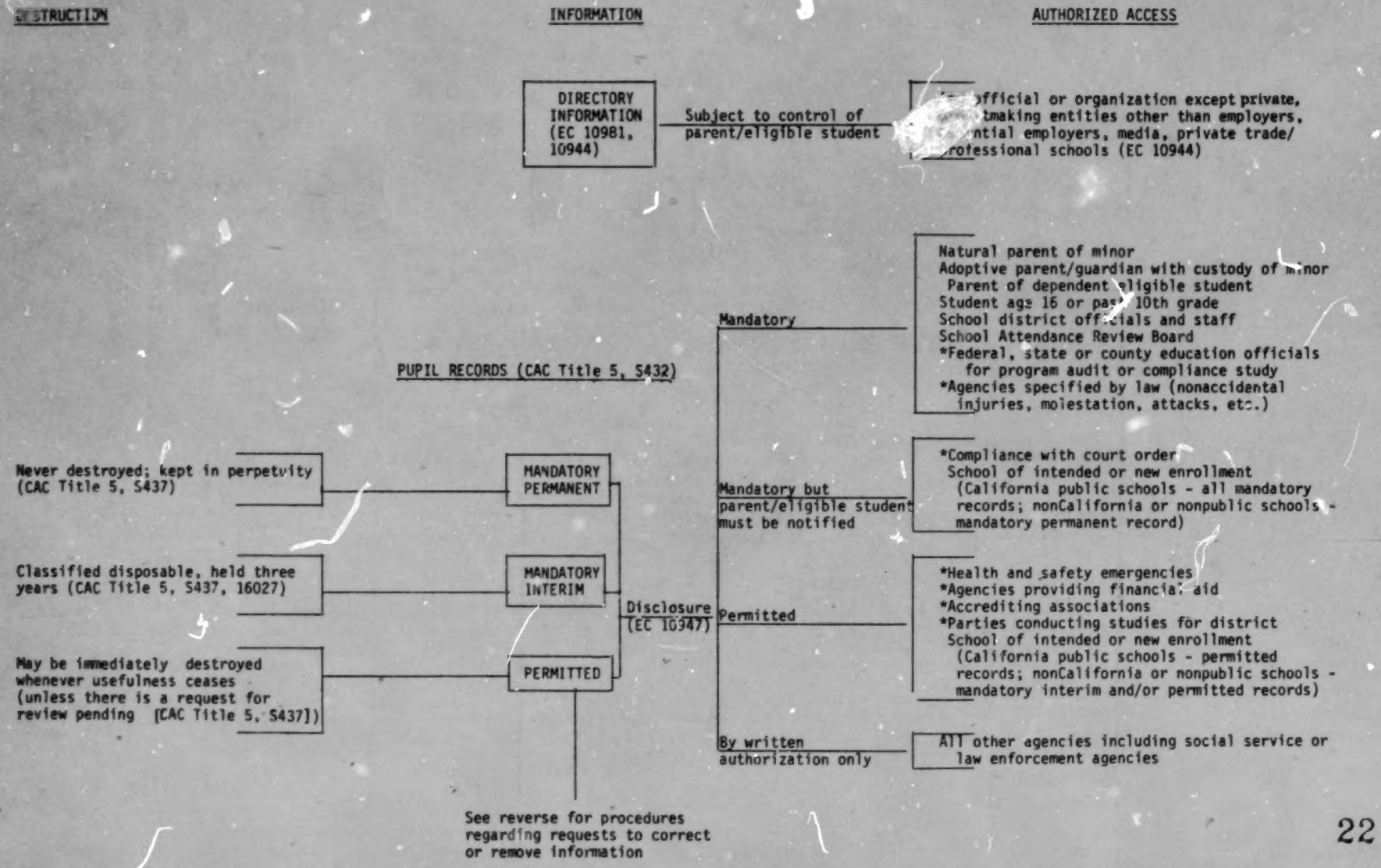
Note that these categories are not classifications as required for maintenance after their usefulness ceases. All records are continuing records until such time as their usefulness ceases and they are then classified as Class I permanent or Class III disposable. Class II, optional, is an interim classification to be used only after usefulness ceases and as an interim classification when a decision between Class I and Class III is postponed. See the discussion regarding Record Classification and Destruction for a fuller explanation.

District procedures should specify the kinds of information which will be included under the permitted records category. More importantly, they should require periodic review to clean out information which is "stale" and no longer useful. A procedure followed by many districts calls for removal of samples of student work, test performances and parent notices at specified intervals. Health data are kept longer.

TABLE 1

Classification	PUPIL RECORDS: (Note--Directory Information and Informal Notes Kept Solely for Personal Use Are Not Records)		
	Mandatory Permanent	Mandatory Interim	Permitted
CAC Title 5 Section 432	(Minimum) A. Legal name B. Date of birth C. Verification of birth date D. Sex E. Place of birth F. Name and address of parent 1. Pupil's residence, if different 2. Annual verification G. Dates of attendance H. Subjects taken I. Grades and credits toward graduation J. Immunizations/exemptions K. Date of high school graduation or equivalent	A. Access log B. Health records C. Special Education Programs 1. Tests 2. Forms 3. Case Studies 4. Authorizations and actions D. Language training records E. Progress reports F. Directory information prohibitions G. Rejoinders to records H. Other parental authorizations or prohibitions I. Standardized tests less than 3 years old	(For educational purposes) A. Objective staff ratings B. Standardized test results more than 3 years old C. Routine disciplinary data D. Behavior observations E. Disciplinary notices F. Attendance records not otherwise required --- Directory Information Content and access determined by policy and Education Code Section 10944.
Access	In Accordance with Education Code Sections 49069, 49073 - 49077 (New)		
Transfer of Record	Mandatory To California Public Schools To Private Schools To Out-of-State Public Schools (Keep original or copy)	Mandatory To California Public Schools Optional To Private Schools To Out-of-State Public Schools	Optional To California Public Schools To Private Schools To Out-of-State Public Schools
Destruction	No, becomes a Class 1 permanent record.	Continuing record until student transfers/leaves, or usefulness ceases; then classified as permanent or disposable in accordance with Title 5 CAC, Section 16020 et seq. Destroyed 3 years following date of origin.	Continuing record until student transfers/leaves or usefulness ceases; then destroyed in accordance with Board policy. Must be destroyed if not forwarded. May be immediately destroyed.

DISCLOSURE, CORRECTION AND DESTRUCTION OF PUPIL RECORDS


DESTRUCTION
INFORMATION
AUTHORIZED ACCESS
DIRECTORY INFORMATION (EC 10981, 10944)
Subject to control of parent/eligible student
official or organization except private, making entities other than employers, ntial employers, media, private trade/ rofessional schools (EC 10944)
PUPIL RECORDS (CAC Title 5, S432)
Mandatory
Natural parent of minor
Adoptive parent/guardian with custody of minor
Parent of dependent eligible student
Student age 16 or past 10th grade
School district officials and staff
School Attendance Review Board
*Federal, state or county education officials for program audit or compliance study
*Agencies specified by law (nonaccidental injuries, molestation, attacks, etc.)
Mandatory but parent/eligible student must be notified
*Compliance with court order
School of intended or new enrollment (California public schools - all mandatory records; nonCalifornia or nonpublic schools - mandatory permanent record)
Permitted
*Health and safety emergencies
*Agencies providing financial aid
*Accrediting associations
*Parties conducting studies for district
School of intended or new enrollment (California public schools - permitted records; nonCalifornia or nonpublic schools - mandatory interim and/or permitted records)
By written authorization only
All other agencies including social service or law enforcement agencies
Disclosure (EC 10947)
Never destroyed; kept in perpetuity (CAC Title 5, S437)
MANDATORY PERMANENT
Classified disposable, held three years (CAC Title 5, S437, 16027)
MANDATORY INTERIM
May be immediately destroyed whenever usefulness ceases (unless there is a request for review pending [CAC Title 5, S437])
PERMITTED
See reverse for procedures regarding requests to correct or remove information

*Record access in student log

ACCESS TO RECORDS

State and federal laws permit access to records according to the following listings. Those granted access are prohibited from releasing information to another person or agency without written permission from the parent or legal guardian. (If the pupil is age 18 or older the right of consent belongs to the pupil.) A log of persons or organizations requesting or receiving information from the record and the reason therefore must be maintained. Legitimate requests by school district personnel do not need to be recorded, nor do requests from parents or students nor those disclosures authorized in writing by a parent or eligible student. The log is sealed and is available for review only by the custodian of the records and the parent or eligible student. See the appendix for an example of an access log.

MANDATORY ACCESS - The following persons or agencies *shall* have access to pupil records:

a) Natural parents, adoptive parents or legal guardian of pupil younger than age 18 (within 5 days of request)
b) School officials and employees for legitimate educational purposes
c) School Attendance and Review Board members
*d) Other public schools (California) where pupil has enrolled or intends to enroll
e) Federal, state, and county officials for program audit or compliance
f) Agencies specified by law (child abuse, attacks)
g) Natural parent or adoptive parent of dependent pupil age 18 or older (within 5 days of request)
h) Pupil age 16 or completed tenth grade
*i) Those so authorized in compliance with court order
*j) Private schools or out-of-state schools of anticipated or new enrollment.

PERMITTED ACCESS - The following persons or agencies *may* have access:

a) Appropriate persons in an emergency
b) Agencies or organizations in connection with students applying for financial aid
c) Accrediting association
d) Organizations conducting studies on behalf of the district
*e) Private schools or out-of-state schools (to mandatory interim and permitted pupil records)
f) Those persons or agencies so authorized by parent or guardian with custody (or pupil if age 18 or older).

* Parent/eligible student notification required.

TABLE 2

THE ACCESS, NOTIFICATION, CONSENT, AND CHALLENGE RIGHTS OF PARENTS AND STUDENTS TO PUPIL RECORDS

Definitions:

Access - Disclosure of record including the right to receive a copy at a reasonable cost.

Student - Any individual who is, or has been, in attendance at the institution maintaining an educational record.

Dependent Student - In accordance with Section 152 of the Internal Revenue Code of 1954.

	...Has Access to Record	...Receives Annual Notification	...Authorizes Release of Record	...Challenges Contents of Records
Minor Students (Below age 18)				
a) Natural Parent (or Guardian) with custody . . .	Yes	Yes	Yes	Yes
b) Natural Parent without custody . . .	Yes	Yes/No*	No	No
c) Student below age 16 who has not completed 10th grade. . .	No	No	No	No
d) Student age 16 or 17 or who has completed 10th grade . . .	Yes	No	No	No
Eligible Students (Age 18 or older or attending post-secondary institution)				
a) Natural Parent (or Guardian) of dependent eligible student. . .	Yes	No	No	No
b) Natural Parent without custody . . .	No**	No	No	No
c) Natural Parent of eligible student (not dependent . . .	No	No	No	No
d) Eligible student . . .	Yes	Yes	Yes	Yes

*Technically "yes," in practice it is often impossible.

** Unless student is dependent of parent without custody.

PROHIBITED ACCESS - If an agency or person is not included, the above access can only be granted through written permission. Such permission must:

a) Specify the nature of the information to be released; and

b) Specify the purpose for which the information is released.

In addition, the recipient must be informed of -- but need not acknowledge in writing -- restrictions upon further release to another agency or person without specific written authorization. See the appendix for suggested forms.

TRANSFER OF RECORD INFORMATION

When a student moves from one school to another, records should be transferred in accordance with state and federal law. Unfortunately, federal law requires the district from which the student moves to notify the parent of the transfer of records along with the parent's right to review, challenge, and/or receive a copy of the transferred record. California law specifies that the district which receives the student shall be responsible for the notification. Procedurally, both requirements can be met if the district provides an annual notification to the parents of every student which specifies that records will be transferred and outlines the other rights cited above. This notice should be provided to all parents each Fall and to the parents of every new student upon enrollment.

CALIFORNIA SCHOOLS ARE NOT REQUIRED TO OBTAIN PARENT PERMISSION TO FORWARD RECORDS -- IN FACT, THEY ARE REQUIRED TO FORWARD RECORDS TO ANY CALIFORNIA SCHOOL OF NEW OR INTENDED ENROLLMENT. Records cannot be withheld for nonpayment of fees or fines.

Mandatory Permanent Pupil records must be forwarded to all schools. (The original, or a copy, also must be retained by the sending district.) Mandatory Interim Pupil records must be forwarded to California public schools and may be forwarded to any other schools. Permitted pupil records may be forwarded at the discretion of the custodian of the records. Private schools in California are required to forward Mandatory Permanent Pupil Records.

If an agency or person provides a written report for the school's information it becomes a part of the pupil's record and, as such, is available to the parent even though it may be marked "confidential." (Technically, it becomes a part of the record only when it is filed or maintained. The custodian of the records should give serious consideration to the educational value of sensitive information before routinely including it as a pupil record. As alternatives, the report may be summarized in a more useful form, it may be returned for revision, or it may be rejected and destroyed before it becomes a record.)

CORRECTION OR REMOVAL OF INFORMATION

Following an inspection and review of a pupil's records, the parent may challenge the content of the pupil's record. (This right to challenge becomes the sole right of the pupil when the pupil becomes 18 or attends a post-secondary institution.)

The parent may file a written request with the superintendent of the district to remove any information recorded in the written records concerning the child which is alleged to be: 1) inaccurate, 2) an unsubstantiated personal conclusion or inference, 3) a conclusion or inference outside of the observer's area of competence, or 4) not based on the personal observation of a named person with the time and place of the observation noted. Note: Federal legislation also includes "misleading" and "a violation of the privacy rights of parents or students."

The superintendent shall then sustain or deny the allegations. If the allegations are sustained, the superintendent shall order the removal and destruction of the information. If the superintendent denies the allegations, the parent may appeal the decision to the governing board. The governing board shall determine whether or not to sustain or deny the allegations. If the governing board sustains the allegations, it shall order the superintendent to immediately remove and destroy the information from the written records of the pupil.

If the final decision of the governing board is unfavorable to the parent, or if the parent accepts an unfavorable decision by the district superintendent, the parent shall have the right to submit a written statement of objections to the information. This statement shall become a part of the pupil's school record until such time as the information objected to is removed.

Both the superintendent and the governing board have the option of appointing a hearing panel in accordance with Education Code Sections 49070-71 to assist in the decision making. The decision as to whether a hearing panel is to be used is solely the discretion of the superintendent or the board and not of the challenging party.

The best safeguard to inclusion of inappropriate or otherwise challengeable information is through a staff training program which alerts them to the requirements of privacy and access laws.

To the degree that a statement describes a student's behavior instead of evaluating it, the statement can withstand challenges. Rather than "hyperactive," a description of the activities which led to such a conclusion should be provided. Likewise for such ambiguous terms as "cooperative," "sickly" or "disinterested." In addition, staff members should restrict comments to areas of training.

CHART 3

REQUEST FOR CORRECTION OR REMOVAL OF INFORMATION BY PARENT/ELIGIBLE STUDENT

(ECS 49070 -71)

Correction or removal based on:

1. Inaccuracy
2. Conclusion or inference outside the competency area of the observer
3. Undated, unspecified place, or unidentifi observer report
4. Unsubstantiated personal conclusion or inference
5. Invasion of privacy rights of student and/or parent

Use of medical, legal, or psychological terms such as "anemic," "intoxicated" or "neurotic" are beyond the competency of classroom teachers. In addition, only those observations which have educational relevance should be recorded. Statements related to adoption, unrelated family incidents, or unsubstantiated claims have no place in a student's record.

ANNUAL NOTIFICATIONS

Notification procedures are particularly elaborate in their compliance with state and federal laws. The notification statement must include:

* A statement of the right of natural parents, adoptive parents or legal guardians, and students (age 16 or older or who have completed the tenth grade) to review all personally identifiable information maintained by the district, their right to receive a copy of any or all records at a reasonable cost, and the right of parents with custody or of students age 18 or older to request the removal or correction of inaccurate, misleading or inappropriate information, including the right to a hearing.
* Specification of the availability (location) of information (policies) pertaining to:
    a) The types of pupil records and the types of information they contain;
    b) Position of the official responsible for the maintenance of each type of record, the persons who have access, and the purposes for which they have access;
    c) District policies for reviewing and expunging records;
    d) Access rights of parents;
    e) Procedures for challenging the content of records;
    f) The cost of copies;
    g) Other rights and requirements.
* A statement to the effect that parents or students over age 18 may file complaints with the Secretary of Health, Education and Welfare if they believe the district is not in compliance with federal requirements.
* Specification of information which is categorized as directory information, recipients, and a statement specifying the period of time within which the parent or student age 18 or older may direct the district to not release directory information.

In addition, the district would facilitate procedures if it includes a statement to the effect that whenever a student enrolls or seeks to enroll at another school, records will be forwarded upon request. Such notice would then meet both state and federal requirements for the transfer of records.

Notification must be given upon the date of the pupil's initial enrollment and annually thereafter at the beginning of the first semester or quarter of the regular school term. It should be in the home language of the pupil. See the appendix for a sample of an annual notification.

DISTRICT POLICIES AND PROCEDURES

Both federal and state law require the district to adopt policies and procedures which implement privacy rights. Depending on the philosophy of the district, a policy could be as brief as one page (see appendix) and direct the development of procedures.

As an alternate, some districts have included rather specific details as a part of the policy. Procedures should provide sufficient detail so that practices are consistent. Each district should adopt a policy and procedure which is consistent with its educational philosophy. For instance, some districts may choose to retain special identifications (e.g., physically handicapped, educationally handicapped) as permanent information, while others may choose to remove such designations when they are no longer necessary for special funding. District *policies* must:

* Guarantee access to authorized persons within five days of request;
* Assure security;
* Enumerate and describe pupil records collected and maintained;
* Designate (certificated) custodian of the records;
* Provide for the classification of records as permanent or disposable;
* Designate directory information and authorized recipients;
* Require an annual notification of right to access by parent or eligible student;
* Specify fees for copies;
* Specify access (disclosure) restrictions including criteria for "school official" and "legitimate educational interest";
* Require access or disclosure log; and
* Provide for the correction or removal of records.

District *procedures* should elaborate the details required for:

* The annual notification of rights;
* Competent interpretation of records;
* Determinations as to the kind of information retained in files;
* The correction or removal of information from pupil record;
* The determination of the "usefulness" of Mandatory Interim and Mandatory Permanent records;
* The transfer of records to
  - California public schools
  - California private schools
  - out-of-state schools
* Maintenance of the access and disclosure log; and
* Complying with or rejecting requests for information from pupil records or from directory information.

SPECIAL EDUCATION RECORDS

Because districts frequently have treated special education records as if they were different from so-called cumulative records, separate consideration for such records is warranted. Simply stated, special education records are subject to the same privacy and access rights as other Mandatory Interim pupil records. Even though records from physicians may be stamped "confidential" or a psychologist's report contains sensitive or potentially upsetting information, the parent or eligible student has full rights of access. Of equal importance is the district's obligation to retain all records required for admission to a special education class or program. Not only are they necessary for audit, but may be necessary to justify committee actions or individual educational plans.

As Mandatory Permanent pupil records, special education records may be classified as Class III, disposable, when they are deemed as no longer useful. This could occur only after transfer or withdrawal from a special education program. Even after classified as disposable, Mandatory Interim records must be retained at least three years beyond the date of the record's creation.

An important exception applies to those records which were used in assessment for a special education candidate who does not become a special education student. In such cases the records are Permitted pupil records and can be classified as Class III, disposable, and destroyed (without the lengthy delay) whenever their usefulness ceases.

COMMUNITY COLLEGE REQUIREMENTS

The basic requirements of student privacy rights in regards to pupil records are the same for community colleges as they are for K-12 districts. Differences are:

* All community college students are eligible students and thus solely responsible for control of information release, including directory information. As eligible students, they alone can challenge the contents of records.

* Parents of eligible students have access to records only if the student is a dependent by the Internal Revenue Service definition. In cases of disputed status, an affidavit should be filed with the district before parents are provided or denied access.

* Exemptions for records maintained by law enforcement units of the community college districts may be claimed subject to the provision of the law.

* Records of medical and psychological treatment or therapy may be exempt from access.

* Access to records devoted solely to confidential recommendations for honors may be waived by student.

* Initial notice of privacy rights must be given within two weeks of enrollment and annually thereafter.

* Annual notice must include
  - -- types of student records and information contained
  - -- official responsible for each type
  - -- location of access log
  - -- criteria for "officials and employees" and "legitimate educational interest"
  - -- policies for reviewing and expunging records
  - -- right to access
  - -- challenge procedures
  - -- cost for copies of records
  - -- directory information categories
  - -- other rights including the right to file complaints with H.E.W.

SAMPLE

AUTHORIZATION FOR THE XYZ SCHOOL DISTRICT
TO RELEASE PUPIL INFORMATION

Form 1a

To: XYZ School District Date _____

XYZ California

Attn: Sammy Swartz, Principal

Please release information pertinent to _____

birthdate _____. Material should be mailed to _____
(address)

_____, Attn. _____

Signed _____ Information requested _____
(Parent with custody; guardian;
*eligible student)

_____

Address _____ Purpose of request _____

_____ _____

Telephone _____ _____

Such information shall not be released to another agency or person unless written peruission is provided by the parent or eligible student.
(*An eligible student is one who has attained age 18 or is attending an institution of post-secondary education.)

AUTHORIZATION TO RELEASE PUPIL INFORMATION

Form 1b

To: _____ Date _____

_____

_____

Please release to the Department of Education, San Diego County, and the _____ School District, information pertinent to _____ birth date _____. Material should be mailed to _____, Department of Education, San Diego County, 6401 Linda Vista Road, San Diego CA 92111 (714/292-3500).

Signed _____ Information Requested _____
(Parent With Custody; Guardian; *Eligible Student)

Address _____ _____

_____ Purpose of Request _____

_____

Telephone _____

Federal PL 93-380 and State Education Code Sections 10940 and 10947 provide that parents (and students age 16 or older or beyond the tenth grade) shall have access to all records maintained by a school district. Release of information by a school district is subject to restrictions of Education Code Section 10947, a copy of which is on the reverse side. In addition, the district may release information upon the written consent of the parent, guardian, or eligible student. (*An eligible student is one who has attained age 18 or is attending an institution of post-secondary education.)

ANNUAL NOTIFICATION
AND
DIRECTORY INFORMATION NOTIFICATION
Form 2

ECS 49063:

Notification of Privacy Rights of Parents and Students. Federal and state laws grant certain rights of privacy and rights of access to students and to their parents.

Full access to all personally identifiable written records maintained by the school district must be granted to:

1) Parents of students age 17 and younger,
2) Parents of students age 18 and older if the student is a dependent for tax purposes,
3) Students age 16 and older, or students who are enrolled in an institution of post-secondary instruction (called "eligible students").

Parents, or an eligible student, may review individual records by making a request to the principal. The principal will see that explanations and interpretations are provided if requested. Information which is alleged to be inaccurate, or inappropriate, may be removed upon request. In addition, parents or eligible students may receive a copy of any information in the records at reasonable cost per page. District policies and procedures relating to types of records, kinds of information retained, persons responsible for records, directory information, access by other persons, review, and to the challenge of records are available through the principal in each high school. When a student moves to a new district, records will be forwarded upon the request of the new school district. At the time of transfer the parent (or eligible student) may review, receive a copy (at a reasonable fee), and/or challenge the records.

If you believe the district is not in compliance with federal regulations regarding privacy, you may file a complaint with the United States Secretary of Health, Education, and Welfare.

The district also makes student *directory information* available in accordance with state and federal laws. This means that each student's name, birthdate, birthplace, address, telephone number, major course of study, participation in school activities, dates of attendance, awards, and previous school attendance may be released to the specified agencies. In addition, height and weight of athletes will be made available. Appropriate directory information may be provided to any agency except private, profit-making organizations other than employers, potential employers, or news media. Names and addresses of seniors or terminating students may be given to public or private schools and colleges.

Upon written request from the parent of a student age 17 or younger the district will withhold directory information about the student. If the student is 18 or older or enrolled in an institution of post-secondary instruction and makes written request, the pupil's request to deny access to directory information will be honored. Requests must be submitted within 30 calendar days of the receipt of this notification.

If you do not wish directory information released (see above) please sign below and return to the school office within the next 30 days. Note that this will prohibit the district from providing the pupil's name and other information to the news media, interested schools, parent-teacher associations, interested employers, and similar parties.

Do not release directory information regarding _____
Pupil's Name

Date _____ Signed by _____

a) Parent/Guardian of pupil age 17 or younger
b) Pupil age 18 or older

REQUEST TO REVIEW SCHOOL RECORD — Form 3

_____ Date

I would like to review the school records for _____ (student)

I wish to examine:

Scholastic and pupil progress data

Test data

Attendance data

Health data

All data

_____

(Parent, guardian, or student age 16 or older or past the 10th grade)

_____

(Telephone number where I can be reached during the working day)

A review will be provided within the next 5 days. You will be contacted for an appointment.

_____ Date reviewed

_____ Parent/Eligible student

_____ School representative

FORM 4

REQUEST TO CORRECT OR REMOVE INFORMATION IN STUDENT RECORD

_____ Date

I have reviewed the file of _____ and wish to have the following information removed or corrected: _____

_____.

Reason for request: _____

_____.

(Should be based on inaccuracy, unsubstantiated statement, statements outside observed area of competence, statements not based on personal observation of the person recording the data, misleading statement, or an invasion of privacy of the student or parent.)

_____

(Parent/Eligible student)

Within the next 5 days you will be contacted regarding an appointment with _____ to review the material. Within 5 days of that meeting, a decision will be made regarding your request.

_____ Date reviewed

Request is approved and material will be removed and sealed prior to classification as a disposable document.

Request is denied. (Parent may either appeal to the Governing Board or attach a statement of rejoinder.)

_____

(School official)

_____

(Date)

If Hearing Panel was used, attach their names and recommendation.

If decision is appealed to Governing Board, forward a copy of that form and disputed data.

Note: If Notification of Transfer is included in annual notification, further notification is not required.

PARENT NOTIFICATION/TRANSFER OF RECORD FORM 5a

(To be used when student has already moved and you have received request for records)

_____ Date

To Parent/Eligible student:

The _____(xyz)_____ School in _____(city)_____ has requested our school records for your son/daughter, _____(name)_____. They indicated that he/she has/will enroll(ed) there. We are forwarding the records as requested. If you wish to review the records or have questions regarding the information, you should contact _____(xyz)_____ School.

They will provide you with a copy of the records for a nominal fee.

PARENT NOTIFICATION/TRANSFER OF RECORD FORM 5b

(To be used when student or parent requests that records be forwarded to district of intended enrollment)

_____ Date

Upon their request, we are forwarding all of the school records for _____(name)_____ to _____(xyz)_____ School District in _____(city)_____, a school where he/she intends to enroll (or other requesting district which indicates that your son/daughter has enrolled there). If you wish to review the file, have questions regarding information in the file, or desire a copy of the materials forwarded, please let this office know. (A nominal fee for copies is charged: (10¢) per page.)

_____
(Principal)

Notification Acknowledged

_____
(Parent/Eligible student)

_____
(Date)

(POSTCARD)

Form 6

REQUEST FOR PUPIL (CUMULATIVE) RECORD Grade_____

_____ Date of birth_____
Pupil's last name First Initial

This pupil is now enrolled in the school named below. Please send complete information about pupil by forwarding his or her original Cumulative Record and all other pertinent records including health and special education information. If your policy does not permit this, please send a copy of the pertinent record. Please include a complete transcript of the work undertaken at your school. Parents have been notified in accordance with State and Federal law.

_____ _____
Name of School Date

_____ _____
Street Address By

_____ _____
City Title

Record
sent by_____ Date_____

SAMPLE LOG OF ACCESS AND REQUESTS FOR ACCESS TO STUDENT'S RECORD Form 7

Note: This is to be completed and placed in a student's file whenever a request is made for specific information (other than directory information) about a pupil. Legitimate requests by school district personnel need not be recorded, nor do requests from parents or students, nor those disclosures authorized in writing by a parent or eligible student.

All other requests, including those authorized by law which do not require permission for access, shall be recorded. Subsequent requests would be added to this log.

Student _____

School _____

CONFIDENTIAL: THIS LOG IS AVAILABLE FOR REVIEW ONLY BY THE CUSTODIAN OF THE RECORDS (OR DESIGNEE) AND THE PARENT OR ELIGIBLE STUDENT. IT IS TO BE FORWARDED (SEALED) TO THE CALIFORNIA PUBLIC SCHOOL OF NEW ATTENDANCE. IT MAY BE FORWARDED TO OTHER SCHOOLS.

Requests for Information from a Student's Record

Person/Agency	Information Requested	Reason	Date of Request	Date of Compliance (Note if not Provided)	Person Providing Information

Fold here and seal

(top inside -- facing front)

SAMPLE PUPIL RECORDS FOLDER
(Draft)

* Pupil's name (legal) _____ Last First Middle

(Name used, if different) _____

* Address _____

_____

* Telephone _____

* Birthdate _____ Method of Verification _____

* Birthplace _____

Immunizations (dates): (Indicate exemptions)
DPT _____ Graduation _____
Poliomyelitis _____ Equivalency
CHDP Exam _____ Rubeola _____ Exam _____

* Sex
M F

Pupil lives with
(name) _____
☐ Natural Parent(s)
☐ Legal Guardian(s)
☐ Other _____

If not living with parent or legal guardian...
Name of parent(s)

_____

Address _____

_____

Telephone _____

SCHOOL HISTORY

School Year	* School	District	City/State	Grade	Teacher	*Date Entered	Transferred To	*Date

*HONORS AND AWARDS date

SPECIAL PROGRAMS date

* Directory Information

TOP
(Outside facing front)

SAMPLE PUPIL RECORD FOLDER

(Draft)

School District_____

School_____

Withhold Directory Information, Date_____

Emergency Notification_____

_____

_____

Significant Observations

Date	

Enclosed	Other Records Elsewhere (Pencil)	
☐	☐	Access Log
☐	☐	Attendance
☐	☐	Disciplinary Notes
☐	☐	Health
☐	☐	Individual Tests
☐	☐	Photographs
☐	☐	Registration
☐	☐	Scholastic Record
☐	☐	Special Education
☐	☐	Staff Comments
☐	☐	Standardized Tests
☐	☐	_____
☐	☐	_____
☐	☐	_____

Appendix B

BOARD POLICY - PUPIL RECORDS

The governing board believes pupil records are a necessary element of describing a student's development in school. It also recognizes that it is essential for the records to be accurate, appropriate, secure, and consistent with various legal statutes.

Therefore, it is the policy of the school district that all policies and procedures pertinent to pupil records be in accordance with state and federal laws and regulations. Such policies and procedures shall:

1. Guarantee access to authorized persons within five working days of request;
2. Assure security;
3. Enumerate and describe pupil records collected and maintained;
4. Provide for the annual notification of right to access by parent or eligible student;
5. State that a nominal fee may be charged for copies of records;
6. Specify access (disclosure) restrictions including criteria for "school official" and "legitimate educational interest";
7. Provide for an access or disclosure log'
8. Provide for the correction or removal of information.

The Director of Pupil Services is designated as the custodian of the records for the district. Principals shall be responsible for implementation of policies at the building level.

The custodian of the records is authorized to classify records in accordance with California Administrative Code, Title 5 regulations and district regulations. However, permanent record classification beyond the requirements of Title 5, Section 432, shall be submitted to the governing board for approval.

Directory information may be released at the discretion of the custodian of the records. Directory information is defined as student's:

1. Name and address;
2. Telephone;
3. Date and place of birth;
4. Major field of study;
5. Participation in officially recognized activities and sports;
6. Weight and height of members of athletic teams;
7. Dates of attendance;
8. Degrees and awards received;
9. The most previously attended public or private school.

Parents and eligible students shall be given the opportunity to deny the release of directory information. In no case, however, shall directory information be released to any official or organization, except public, non-profit entities other than employers, potential employers, media, or private trade/professional schools.

The Superintendent shall provide detailed procedures supporting and implementing this policy.

Appendix C

STUDENT RECORDS QUIZ

The natural father of a 9th grade student makes a request to see the following (he has legal custody); will you permit him to examine:

_____ 1. Attendance record?

_____ 2. Cumulative file?

_____ 3. Four-year card (Scholastic Record)?

_____ 4. School health record which includes a self-reported V.D. contact?

_____ 5. School psychologist's report?

_____ 6. Counselor's notes from interviews (kept in the counselor's desk drawer and not used in any written reports or disclosed to any other person)?

_____ 7. A report from a physician which is marked "confidential"?

While there, he also requests to see his 18-year-old son's four-year card so that he can check progress towards graduation.

_____ 8. Will you let him?

The ninth grader asks to see her cum folder.

_____ 9. Will you let her?

The son requests to see his cum folder.

_____ 10. Will you let him?

The following people call requesting information from pupil records. Will you give it to them?

_____ 11. The PTA president wants the phone number of a room mother.

_____ 12. Army intelligence wants to conduct a review of a student's record as a part of a security clearance.

_____ 13. Welfare wants to check a student's attendance record.

_____ 14. County Mental Health wants to know if your school has any medical or psychological reports on a particular student.

_____ 15. The California Scholarship Commission wants the scholastic record for John Doe.

_____ 16. The Sheriff wants to know if John Doe is currently enrolled.

_____ 17. The FBI wants to know if Jane Doe ever attended your school.

_____ 18. A high school in California indicates that Jack Doe just registered and wants his file forwarded.

_____ 19. A natural parent who does not have custody of his minor child requests a copy of the child's grades be sent to a prospective employer.

A parent indicates to the superintendent that a report is erroneous and wishes it removed.

_____ 20. Must the superintendent do so?

_____ 21. May he do so?

_____ 22. A parent insists that a hearing panel be convened to review disputed material. Must one be convened?

You suspend a student for three days.

_____ 23. Must the parents be notified of an opportunity to rebut the suspension report with an attached statement of their own?

Student files are loaded with questionable data.

24. Would it be a good idea to go through files and immediately destroy all potentially damaging material and information?

You see bruises on a child. You suspect child abuse.

_____ 25. Can you contact the Sheriff?

A natural parent without custody requests copies of a child's records.

_____ 26. Must you provide them?

The health department wishes to review pupil records to learn which students have not completed immunizations.

_____ 27. Will you permit access?

The state senator representing your high school district wants names and addresses of all seniors so congratulatory letters can be sent to them.

_____ 28. Will you provide the information?

A university graduate student requests access to the four-year records of students to gather information for a thesis on achievement and attendance.

_____ 29. Do you grant the request?

Is the written consent of the parent having legal custody required for transfer of records to —

_____ 30. a. another school within the district?

_____ b. another private or public school within the state?

Will you honor the following:

_____ 31. A military recruiter requests a list of graduates with addresses?

_____ 32. The insurance carrier for the district requests records to prepare a defense against a claim?

ANSWERS TO STUDENT RECORDS QUIZ

1,2,3,4,5: All "yes". Both state and federal law prohibit withholding or editing any information.

6: No. Definitions of "—— records" under both state and federal law exclude such notes.

7: Most likely yes. Check with County Counsel before you do if report is sensitive and withholding would better serve the student. Privileged communication, though frequently claimed, is rarely warranted. Each situation must be dealt with separately.

8. It depends. The 18-year-old as an adult has all the rights which the parents had previously. They no longer have any rights to pupil records unless the pupil has granted them written permission. An exception is made in both federal and statelaw for the parents of an 18-year-old who is a dependent as defined in Section 152 of the Internal Revenue Code of 1954.

9: Technically speaking, no. A provision in state law for a minor to review his record limits such access to a pupil 16 years of age or older or having completed the 10th grade.

10: Yes. See 8 above.

11. Yes — sort of. If your policy permits, you can give the student's number.

12,13,14: No. Federal and state law probibit giving any information to those listed without parent consent or judicial order.

15. Yes. Both state and federal law permit providing pertinent data about applicants for student financial aid.

16,17: No, if the parent has notified the school district that such information is not to be released. Yes, if the parent has not denied the right to release "directory information" and the agencies named were included in notice of those eligible for directory information.

18: Yes. State law requires that you forward records and the requesting district must notify the parent of the right to a copy and to a hearing to challenge the content. Federal law permits it under the provision that parents (or the student if 18 or older or attending a post-secondary institution) are notified, offered a copy and an opportunity to review and challenge any data or information.

19: No. "Parent" as defined under state law provides only the parent having legal custody....may consent to release of records to others. (However, both parents are entitled to copies of the records or other access.)

20: No.

21: Yes, if the objectionable matter is found to be inaccurate, unfounded, beyond the competency of the observer, undated and unsigned or an invasion of privacy.

22: No. The removal of information and the hearing panel are both options available to the superintendent, but he can refuse to do either.

23: Not necessarily notified though ECS 10934 gives them the right to a rejoinder.

24: Careful here. Title 5 specifies the procedure for destroying information. Unauthorized destruction can be a felony. "Permitted pupil records" may be destroyed when their usefulness ceases. Others may have to be retained as a Class III disposable record for up to three years.

25: Yes. You must share anything of your own observation. The restriction would be that you could not give the sheriff any additional access to records, other than that information necessary to make the report required by law.

26: YES No. All parents have identical rights under federal law.

27: Yes. Under provisions of the Health and Safety Code requiring evidence of immunization to be presented, access should be permitted pursuant to those sections of the state and federal records laws related to information required to be reported or disclosed.

28: Yes, if the information has been designated "directory information," it may be released for all but those pupils whose parents have notified the school district that such information shall not be released.

29: No. Not without written consent from parents of all the pupils whose records would be reviewed.

30: No, in both cases.

31: It is permissible if local policy permits. Where parents of seniors or eligible students have given written notice, their names must be omitted from the list.

32: No. There is no authorization in the law. A subpoena or parent release is required.

Appendix D

TEACHER COMMENTS (FICTITIOUS) ON STUDENT RECORDS

Check the squares which reflect your opinion or judgment

	Is the statement subject to a a successful challenge?		Is the statement appropriate?	
	Yes	No	Yes	No
1. Mary is a sweet little girl.	☐	☐	☐	☐
2. Melvin's mother is cooperative.	☐	☐	☐	☐
3. Fred works well in small groups.	☐	☐	☐	☐
4. Myrtle's father showed up drunk for a parent conference.	☐	☐	☐	☐
5. Samuel's parents indicated that Samuel is adopted. (He doesn't know.)	☐	☐	☐	☐
6. Charles is absent at least one day per week...	☐	☐	☐	☐
7. ...because of his neglectful mother.	☐	☐	☐	☐
8. Myrtle's mother indicated that she is willing to help Myrtle with her homework.	☐	☐	☐	☐
9. Helen is an anemic child.	☐	☐	☐	☐
10. Alexander disrupts the class daily.	☐	☐	☐	☐
11. Melvin's work dropped off after his father's arrest.	☐	☐	☐	☐
12. Charlene's work dropped off after her parents' divorce.	☐	☐	☐	☐
13. Hedy's work dropped off after her brother's death.	☐	☐	☐	☐
14. Sally indicates that her parents frequently whip her.	☐	☐	☐	☐

ANSWERS

1. Not necessarily challengable but not very descriptive, thus not appropriate.

2. Not necessarily challengable but not very descriptive, thus not appropriate.

3. Not challengable and appropriate. The teacher is competent to make such a judgment.

4. Challengable and not appropriate. "Drunk" has a legal definition which a teacher is not competent to judge.

5. Not challengable but not appropriate. Sam can read the record when he's 16.

6. Not challengable and appropriate. It's descriptive.

7. Challengable. It's an inference without supporting fact.

8. Same as six. It's descriptive and potentially valuable information.

9. Yes/no — beyond competency. The nurse might be competent to make this statement.

10. Keep it. It's descriptive.

11. Strange how we might react differently to each of these. All three events
12. might be a fact, but #11 could be an invasion of privacy; #12 possibly so.
& Here's where judgments come into conflict. The basic question is whether or
13. not they are educationally appropriate.

14. Needs substantiation — even then report it to the police and child protection services and leave it out of the record. The parents might want to review it sometime and that could be counterproductive to the child.

EDUCATION CODE - STATE OF CALIFORNIA

CHAPTER 1.5. PUPIL RECORDS

ARTICLE 1. LEGISLATIVE INTENT

Purpose

49060. It is the intent of the Legislature to resolve potential conflicts between California law and the provisions of Public Law 93-380 regarding parental access to, and the confidentiality of, pupil records in order to insure the continuance of federal education funds to public educational institutions within the state, and to revise generally and update the law relating to such records.

K-12

This chapter shall have no effect regarding public community colleges, other public or private institutions of higher education, other governmental or private agencies which receive federal education funds unless described herein, or, except for Sections 49068 and 49069 and subdivision (b) (5) of Section 49076, private schools.

Preempts Public Record Act

The provisions of this chapter shall prevail over the provisions of Section 554 of this code and Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code to the extent that they may pertain to access to pupil records.

ARTICLE 2. DEFINITIONS

Parent

49061. As used in this chapter:
(a) "Parent" means a natural parent, an adoptive parent, or legal guardian. If parents are divorced or legally separated, only the parent having legal custody of the pupil may challenge the content of a record pursuant to Section 49070, offer a written response to a record pursuant to Section 49072, or consent to release records to others pursuant to Section 49075, provided, however, that either parent may grant consent if both parents have notified, in writing, the school or school district that such an agreement has been made. Whenever a pupil has attained the age of 18 years or is attending an institution of postsecondary education, the permission or consent required of, and the rights accorded to, the parents or guardian of the pupil shall thereafter only be required of, and accorded to, the pupil.

Pupil Record

(b) "Pupil record" means any item of information directly related to an identifiable pupil, other than directory information, which is maintained by a school district or required to be maintained by any employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm or other means.

Informal Notes

"Pupil record" shall not include informal notes related to a pupil compiled by a school officer or employee which remain in the sole possession of the maker and are not accessible or revealed to any other person except a substitute. For purposes of this subdivision, "substitute" means a person who performs the duties of the individual who made the notes on a temporary basis, and does not refer to a person who permanently succeeds the maker of the notes in his or her position.

Directory Information

(c) "Directory information" means one or more of the following items: student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous public or private school attended by the student.

K-12

(d) "School district" means any school district maintaining any of grades kindergarten through 12, any public school providing instruction in any of grades kindergarten through 12, the office of the county superintendent of schools, or any special school operated by the Department of Education.

Access

(e) "Access" means a personal inspection and review of a record or an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record.

ARTICLE 3. GENERAL PROVISIONS

State Board Regulations; Destruction

49062. School districts shall establish, maintain, and destroy pupil records according to regulations adopted by the State Board of Education. Such regulations shall establish state policy as to what items of information shall be placed into pupil records and what information is appropriate to be compiled by individual school officers or employees under the exception to pupil records provided in subdivision

(b) of Section 49061. No pupil records shall be destroyed except pursuant to such regulations or as provided in subdivisions (b) and (c) of Section 49070.

Notification of Rights

49063. School districts shall notify parents in writing of their rights under this chapter upon the date of the pupil's initial enrollment, and thereafter at the same time as notice is issued pursuant to Section 48980. The notice shall be, insofar as is practicable, in the home language of the pupil. The notice shall take a form which reasonably notifies parents of the availability of the following specific information:

(a) The types of pupil records and information contained therein which are directly related to students and maintained by the institution.

(b) The position of the official responsible for the maintenance of each type of record.

(c) The location of the log or record required to be maintained pursuant to Section 49064.

(d) The criteria to be used by the district in defining "school officials and employees" and in determining "legitimate educational interest" as used in Section 49064 and paragraph (1) of subdivision (a) of Section 49076.

(e) The policies of the institution for reviewing and expunging those records.

(f) The right of the parent to access to pupil records.

(g) The procedures for challenging the content of pupil records.

(h) The cost, if any, which will be charged to the parent for reproducing copies of records.

(i) The categories of information which the institution has designated as directory information pursuant to Section 49073.

(j) Any other rights and requirements set forth in this chapter, and the right of the parent to file a complaint with the United States Department of Health, Education and Welfare concerning an alleged

failure by the district to comply with the provisions of Section 438 of the General Education Provisions Act (20 U.S.C.A. Sec. 2323g).

Access Log

49064. A log or record shall be maintained for each pupil's record which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interests therefor. Such listing need not include:

(a) Parents or pupils to whom access is granted pursuant to Section 49069 or paragraph (6) of subdivision (a) of Section 49076.

(b) Parties to whom directory information is released pursuant to Section 49073.

(c) Parties for whom written consent has been executed by the parent pursuant to Section 49075.

(d) School officials or employees having a legitimate educational interest pursuant to paragraph (1) of subdivision (a) of Section 49076.

The log or record shall be open to inspection only by a parent and the school official, or his designee, responsible for the maintenance of pupil records, and to other school officials with legitimate educational interests in the records, and to the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency as defined in Public Law 93-380, and state educational authorities as a means of auditing the operation of the system.

Copy Charge

49065. Any school district may make a reasonable charge in an amount not to exceed the actual cost of furnishing copies of any pupil record; provided, however, that no charge shall be made for furnishing (1) up to two transcripts of former pupils' records or (2) up to two verifications of various records of former pupils. No charge may be made to search for or to retrieve any pupil record.

Pupil Transfer

49068. Whenever a pupil transfers from one school district to another or to a private school, or transfers from a private school to a school district within the state, the pupil's permanent record or a copy thereof shall be transferred by the former district or private school upon a request from the

district or private school where the pupil intends to enroll. Any school district requesting such a transfer of a record shall notify the parent of his right to receive a copy of the record and a right to a hearing to challenge the content of the record. The State Board of Education is hereby authorized to adopt rules and regulations concerning the transfer of records.

ARTICLE 4. RIGHTS OF PARENTS

Parent Access

49069. Parents of currently enrolled or former pupils have an absolute right to access to any and all pupil records related to their children which are maintained by school districts or private schools. The editing or withholding of any such records, except as provided for in this chapter, is prohibited.

Each school district shall adopt procedures for the granting of requests by parents to inspect and review records during regular school hours, provided that access shall be granted no later than five days following the date of the request. Procedures shall include the notification to the parent of the location of all official pupil records if not centrally located and the providing of qualified certificated personnel to interpret records where appropriate.

Correction or Removal of Information

49070. Following an inspection and review of a pupil's records the parent of a pupil or former pupil of a school district may challenge the content of any pupil record.

(a) The parent of a pupil may file a written request with the superintendent of the district to correct or remove any information recorded in the written records concerning his child which he alleges to be: (1) inaccurate, (2) an unsubstantiated personal conclusion or inference, (3) a conclusion or inference outside of the observer's area of competence, or (4) not based on the personal observation of a named person with the time and place of the observation noted.

(b) Within 30 days of receipt of such request, the superintendent or his designee shall meet with the parent and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district. The superintendent shall then sustain or deny the allegations.

If the superintendent sustains any or all of the allegations, he shall order the correction or the removal and destruction of the information.

If the superintendent denies any or all of the allegations and refuses to order the correction or the removal of the information, the parent may, within 30 days of the refusal, appeal the decision in writing to the governing board of the school district.

(c) Within 30 days of receipt of such an appeal, the governing board shall, in closed session with the parent and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district, determine whether or not to sustain or deny the allegations.

If the governing board sustains any or all of the allegations, it shall order the superintendent to immediately correct or remove and destroy the information from the written records of the pupil.

The decision of the governing board shall be final.

Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the governing board, unless the parent initiates legal proceedings relative to the disputed information within the prescribed period.

(d) If the final decision of the governing board is unfavorable to the parent, or if the parent accepts an unfavorable decision by the district superintendent, the parent shall have the right to submit a written statement of his objections to the information. This statement shall become a part of the pupil's school record until such time as the information objected to is corrected or removed.

49071. (a) To assist in making determinations pursuant to Section 49070, a district superintendent or governing board may convene a hearing panel composed of the following persons, provided that the parent has given written consent to release information from the relevant pupil's records to the members of the panel so convened:

(1) . The principal of a public school other than the public school at which the record is on file.

(2) A certificated employee appointed by the chairman of the certificated employee council of the district, or, if no such a council exists, a certificated employee appointed by the parent.

(3) A parent appointed by the superintendent or by the governing board of the district, depending upon who convenes the panel.

(b) The persons appointed pursuant to paragraphs (2) and (3) of subdivision (a) shall, if possible, not be acquainted with the pupil, his parent or guardian, or the certificated employee who recorded the information, except when the parent or guardian appoints the person pursuant to paragraph (2).

(c) The principal appointed to the hearing panel shall serve as its chairman.

(d) The hearing panel shall, in closed session, hear the objections to the information of the parent and the testimony of the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district.

The hearing panel shall be provided with verbatim copies of the information which is the subject of the controversy.

Written findings shall be made setting forth the facts and decisions of the panel, and such findings shall be forwarded to the superintendent or the governing board, depending upon who convened the panel.

The proceedings of the hearing shall not be disclosed or discussed by panel members except in their official capacities.

Disciplinary Rejoinders

49072. Whenever there is included in any pupil record information concerning any disciplinary action taken by school district personnel in connection with the pupil, the school district maintaining such record or records shall allow the pupil's parent to include in such pupil record a written statement or response concerning the disciplinary action.

Directory Information

49073. School districts shall adopt a policy identifying those categories of directory information as defined in subdivision (c) of Section 10932 which may be released. The district shall determine which officials or organizations may receive directory information provided, however, that no information may be released to a private profitmaking entity other than employers, prospective employers and representatives of the news media, including, but not limited to, newspapers, magazines, and radio and television stations. The names and addresses of pupils enrolled in grade 12 or who have terminated enrollment prior to graduation may be provided to a private school or college operating under the provisions of Division 21; provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution, and provided further that any violation of this provision is a misdemeanor, punishable by a fine of not to exceed two thousand five hundred dollars ($2,500), and, in addition, the privilege of the school or college to receive such information shall be suspended for a period of two years from the time of discovery of the misuse of such information. Any district may, in its discretion, limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interests of pupils.

Directory information may be released according to local policy as to any pupil or former pupil, provided that notice is given at least on an annual basis of the categories of information which the school plans to release and of the recipients. No directory information shall be released regarding any pupil when a parent has notified the school district that such information shall not be released.

Research Data

49074. Nothing in this chapter shall preclude a school district from providing, in its discretion, statistical data from which no pupil may be identified to any public agency or entity or private nonprofit college, university, or educational research and development organization when such actions would be in the best educational interests of pupils.

49075. A school district may permit access to pupil records to any person for whom a parent of the pupil has executed written consent specifying the records to be released and identifying the party or class of parties to whom the records may be released. The recipient must be notified that the transmission of the information to others without the written consent of the parent is prohibited. The consent notice shall be permanently kept with the record file.

Mandatory Access

49076. A school district is not authorized to permit access to pupil records to any person without written parental consent or under judicial order except that:

(a) Access to those particular records relevant to the legitimate educational interests of the requester shall be permitted to the following:

(1) School officials and employees of the district and members of a school attendance review board appointed pursuant to Section 48321, provided that any such person has a legitimate educational interest to inspect a record.

(2) Officials and employees of other public schools or school systems, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided, where the pupil intends to or is directed to enroll, subject to the rights of parents as provided in Section 49068.

(3) Authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency, state education officials, or their respective designees, or the United States Office for Civil Rights, where such information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, provided that except when collection of personally identifiable information is specifically authorized by federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students or their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and

enforcement of federal legal requirements.

(4) Other state and local officials to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

(5) Parents of a pupil 18 years of age or older who is a dependent as defined in Section 152 of the Internal Revenue Code of 1954.

(6) A pupil 16 years of age or older or having completed the 10th grade who requests such access.

Permitted Access

(b) School districts may release information from pupil records to the following:

(1) Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

(2) Agencies or organizations in connection with a student's application for, or receipt of, financial aid; provided, that information permitting the personal identification of students or their parents may be disclosed only as may be necessary for such purposes as to determine the eligibility of the pupil for financial aid, to determine the amount of the financial aid, to determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(3) Accrediting organizations in order to carry out their accrediting functions.

(4) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.

(5) Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll, subject to the rights of parents as provided in Section 49068. Such information shall be in addition to the pupil's permanent record transferred pursuant to Section 49068.

Written Authorization

No person, persons, agency, or organization permitted access to pupil records pursuant to this section shall permit access to any information obtained from such records by any other person, persons, agency, or organization without the written consent of the pupil's parent; provided, however, that this paragraph shall not be construed as to require prior parental consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency, or organization obtaining access, so long as such persons have a legitimate interest in the information.

Court Order

49077. Information concerning a student shall be furnished in compliance with a court order. The school district shall make a reasonable effort to notify the parent and the pupil in advance of such compliance if lawfully possible within the requirements of the judicial order.

Subpoena

49078. The service of a subpoena upon a public school employee solely for the purpose of causing him to produce a school record pertaining to any pupil may be complied with by such employee, in lieu of personal appearance as a witness in the proceeding, by submitting to the court, or other agency issuing the subpoena, at the time and place required by the subpoena, a copy of such record, accompanied by an affidavit certifying that such copy is a true copy of the original record on file in the school or school office. The copy of the record shall be in the form of a photostat, microfilm, microcard, or miniature photograph or other photographic copy or reproduction, or an enlargement thereof.

Appendix F
REFERENCES TO STUDENT RECORDS IN CALIFORNIA ADMINISTRATIVE CODE TITLE 5, EDUCATION

Article 3. Individual Pupil Records

430. Definition. (a) "Pupil" means a person who is or was enrolled in a school.

(b) "Adult Pupil" means a person who is or was enrolled in school and who is at least 18 years of age.

(c) "Eligible Pupil" means a person 16 years or older or who has completed Grade 10.

(d) "Pupil Record" means information relative to an individual pupil gathered within or without the school system and maintained within the school system, regardless of the physical form in which it is maintained. Essential in this definition is the idea that any information which is maintained for the purpose of second party review is considered a pupil record.

(1) "Mandatory Permanent Pupil Records" are those records which are maintained in perpetuity and which schools have been directed to compile by California statute, regulation, or authorized administrative directive.

(2) "Mandatory Interim Pupil Records" are those records which the schools are directed to compile and maintain for stipulated periods of time and are then destroyed as per California statute, regulation, or authorized administrative directive.

(3) "Permitted Pupil Records" are those records having clear importance only to the current educational process of the student.

(e) "District" means a local school district or county or state operated special school or private or out-of-state school for which California tax revenues pay all or part of the tuition.

NOTE: Authority cited: Section 152 and 10930, Education Code and 20 U.S.C. § 1232(g). Reference: Section 10933, Education Code.

431. Responsibilities of Local Governing Boards. (a) Local governing boards shall designate a certificated employee as custodian of records. Such employee shall be charged with districtwide responsibility for implementing board policies relating to pupil records.

(b) The principal of each school or a certificated designee shall be responsible for the implementation of board and district policies relating to the pupil records maintained in that school.

(c) Each district shall establish written policies and procedures for pupil records which implement Education Code Section 10931, and Title 5 regulations relating to pupil records. Such procedures and policies shall:

(1) Guarantee access to authorized persons within 5 days following the date of request;

(2) Assure security of the records; and

(3) Enumerate and describe the pupil records collected and maintained by the district.

(d) All anecdotal information and assessment reports maintained as a pupil record shall be dated and signed by the individual who originated the data.

(e) The district shall notify parents in writing at least annually of their rights in regard to pupil records as per Education Code Section 10934.

(f) When a parent's dominant language is not English, the district shall make an effort to:

(1) Provide interpretation of the pupil record in the dominant language of the parent, or

(2) Assist the parent(s) in securing an interpreter.

(g) Neither the pupil record, nor any part thereof, shall be withheld from the parent or eligible pupil requesting access.

432. Varieties of Pupil Records. (a) The principal of each school shall keep on file a record of enrollment and scholarship for each pupil currently enrolled in said school.

(b) Local school districts shall not compile any other pupil records except mandatory or permitted records as herein defined:

(1) "Mandatory Permanent Pupil Records" are those records which the schools have been directed to compile by California statute authorization or authorized administrative directive. Each school district shall maintain indefinitely all mandatory permanent pupil records or an exact copy thereof for every pupil who was enrolled in a school program within said district. The mandatory permanent pupil record or a copy thereof shall be forwarded by the sending district upon request of the public or private school in which the student has enrolled or intends to enroll. Such records shall include the following:

(A) Legal name of pupil.
(B) Date of birth.
(C) Method of verification of birth date.
(D) Sex of pupil.
(E) Place of birth.
(F) Name and address of parent of minor pupil.
1. Address of minor pupil if different than the above.
2. An annual verification of the name and address of the parent and the residence of the pupil.

(G) Entering and leaving date of each school year and for any summer session or other extra session.

(H) Subjects taken during each year, half-year, summer session, or quarter.

(I) If marks or credit are given, the mark or number of credits toward graduation allows for work taken.

(J) Verification of or exemption from required immunizations.

(K) Date of high school graduation or equivalent.

(2) "Mandatory Interim Pupil Records" are those records which schools are required to compile and maintain for stipulated periods of time and are then destroyed as per California statute or regulation. Such records include:

(A) A log or record identifying those persons (except authorized school personnel) or organizations requesting or receiving information from the record. The log or record shall be accessible only to the legal parent or guardian or the eligible pupil, or a dependent adult pupil, or an adult pupil, or the custodian of records.

(B) Health information, including Child Health Developmental Disabilities Prevention Program verification or waiver.

(C) Participation in special education programs including required tests, case studies, authorizations, and actions necessary to establish eligibility for admission or discharge.

(D) Language training records.

(E) Progress slips and/or notices as required by Education Code Sections 10937 and 10938.

(F) Parental restrictions regarding access to directory information or related stipulations.

(G) Parent or adult pupil rejoinders to challenged records and to disciplinary action.

(H) Parental authorizations or prohibitions of pupil participation in specific programs.

(I) Results of standardized tests administered within the preceding three years.

(3) "Permitted Records" are those pupil records which districts may maintain for appropriate educational purposes. Such records may include:

(A) Objective counselor and/or teacher ratings.
(B) Standardized test results older than three years.
(C) Routine discipline data.
(D) Verified reports of relevant behavioral patterns.
(E) All disciplinary notices.
(F) Attendance records not covered in the Administrative Code Section 400.

433. Maintenance and Security of Pupil Records. (a) The custodian of records shall be responsible for the security of pupil records maintained by the district and shall devise procedures for assuring that access to such records is limited to authorized persons.

(b) Records for each individual pupil shall be maintained in a central file at the school attended by the pupil, or when records are maintained in different locations a notation in the central file as to where such other records may be found is required.

434. Access to Pupil Records. Access to pupil records should be in accordance with Education Code Sections 10940, and 10944 through 10948.

435. Procedure for Access to Pupil Records. (a) Authorized organizations, agencies, and persons from outside the school whose access requires the consent of the parent or the adult pupil must submit their request to view the records, together with any required authorization, to the chief school administrator or the custodian of records.

(b) The chief school administrator or the custodian of records or a certificated designee shall be responsible during the inspection for interpretation of the records where necessary and for prevention of their alteration, damage, or loss. In every instance of inspection of pupil records by persons who do not have assigned educational responsibility, an entry shall be made in the access log of said record, indicating the name of the person(s) granted access, the reason access was granted, the time and circumstances of inspection, and the records inspected.

(c) Unless otherwise judicially instructed, the school district shall, prior to the disclosure of any pupil records to organizations, agencies, or persons outside the school pursuant to a court order, give the parent or adult pupil at least three days' notice, if lawfully possible within the requirements of the judicial order, of the name of the requesting agency and the specific records requested. Such notification shall be provided in writing, if practicable. Only those records related to the specific pupose of the court order shall be disclosed.

436. Rights of Parents and Adult Pupils. A parent or an adult pupil may challenge the content of any pupil record according to the procedures established by Education Code Sections 10940 and 10941. A hearing panel may be convened to aid the superintendent or board in deciding whether a challenge should be sustained, as specified in Education Code Section 10942.

Information shall be corrected or removed if it is: (1) inaccurate, (2) an unsubstantiated personal conclusion or inference, (3) a conclusion or inference outside of the observer's area of competence, or (4) not based on the personal observation of a named person with the time and place of the observation noted.

437. Retention and Destruction of Pupil Records. (a) No additions except routine updating shall be made to the record after high school graduation or permanent departure without the prior consent of the parent or adult pupil.

(b) Mandatory permanent pupil records shall be preserved in perpetuity by all California schools according to Chapter 2, Division 16, Part I, of this title.

(c) Unless forwarded to another district, mandatory interim pupil records may be adjudged to be disposable when the student leaves the district or when their usefulness ceases. Destruction shall be in accordance with Section 16027 of this title during the third school year following such classification.

(d) Permitted pupil records may be destroyed when their usefulness ceases. They may be destroyed after six months following the pupil's completion of or withdrawal from the educational program.

The method of destruction shall assure that records are not available to possible public inspection in the process of destruction.

438. Transfer of Records. (a) When a pupil transfers to another school district or to a private school, a copy of the pupil's Mandatory Permanent Pupil Record shall be transferred upon request from the other district or private school. The original or a copy must also be retained permanently by the sending district. If the transfer is to another California public school, the pupil's entire Mandatory Interim Pupil Record shall be forwarded. If the transfer is out of state or to a private school, the Mandatory Interim Pupil Record may be forwarded. Permitted pupil records may be forwarded. All pupil records shall be updated prior to such transfer.

(b) If the pupil is a within-California transfer, the receiving school shall notify parents of the record transfer. If the student transfers out of state, the sending district may notify the parents of the rights accorded them. The notification shall include a statement of the parent's right to review, challenge, and receive a copy of the pupil record, if desired.

(c) Pupil records shall not be withheld from the requesting district because of any charges or fees owed by the pupil or his parent. This provision applies to pupils in grades K–12 in both public and private schools.

Article 4. Records Identifying and Accounting for Project-connected Pupils

450. Records Identifying Project-connected Pupils. The following procedure shall be used, and the following records kept, in identifying project-connected pupils defined in Education Code Section 18302:

(a) On October 31 or on the last day of school preceding October 31, each school district contemplating the filing of an application for an apportionment under the provisions of Article 15 of Chapter 1 of Division 14 of the Education Code shall identify each pupil who has enrolled in the regular full-time day schools of the district subsequent to the commencement of any project defined in Education Code Section 18301, and whose parent or guardian has moved into the district subsequent to the commencement of such project. The record of identification shall include, but is not limited to, each of the following items of information which shall be verified by an employee of the school district:

(1) Name of pupil enrolled.
(2) Grade in which enrolled.
(3) Name of parent or guardian.
(4) Address of parent or guardian.
(5) Date parent or guardian moved into district.
(6) Name of employer of parent or guardian.
(7) Address of such employer and location of employment.
(8) Date of beginning such employment.
(9) Signature of school district employee verifying information.
(10) Dates on which re-examinations required by subsection (c) of this section were made.
(11) Date pupil enrolled in the regular full-time day schools.

(b) The pupil identified in (a) above shall include only those pupils whose parents or guardians are employed by a contractor or subcon-

tractor in connection with the project or by the State of California whose work is in connection with the project. Upon verification of the information required in (a) above and the filing of a certification by the parent or guardian of each pupil that such parent or guardian moved into the area subsequent to the commencement of the project primarily for the purpose of securing employment or being employed in connection with the project, such pupil shall be determined to be in addition to the number of children who would otherwise normally be expected to be in the district pursuant to the provisions of Education Code Section 18302.

(c) Periodically throughout the school year, but not less than three times during such year, the district shall re-examine the employment status of the parent or guardian of each project-connected pupil. The date of any change of employment shall be indicated and the new employer noted on the identification record of the pupil.

Chapter 2. Destruction of Records of School Districts

Article 1. General Provisions

16020. Definition of Records. (a) As used in this article, "records" means all records, maps, books, papers, and documents of a school district required by law to be prepared or retained or which are prepared or retained as necessary or convenient to the discharge of official duty.

(b) The following documents are not "records" and may be destroyed at any time:

(1) Mimeographed, otherwise duplicated, or carbon copies, except the original or one copy. (A person receiving a duplicated copy need not retain it.)

(2) Any pupil pass, tardy slip, admit slip, verification of illness or other note from home relating to a pupil.

(3) An individual memorandum, other than one relating to personnel matters, between one employee and another employee of the district.

(4) Notices of meetings.

(5) Advertisements and other sales material received.

(6) Library books, pamphlets, and magazines.

(7) Textbooks, maps used for instruction, and other instructional materials.

Note: Authority cited for Chapter 2: Section 1034, Education Code. Issuing agency: Superintendent of Public Instruction.

16021. Scope of Chapter. Records shall be retained, transferred or destroyed only as provided in this chapter.

16022. Classification of Records. (a) **Prior Year Records.** Before January 1, the district superintendent (or a person designated in the minutes of a district not employing a superintendent) shall review documents and papers originating during the prior school year and classify them as Class 1—Permanent, Class 2—Optional, or Class 3—Disposable.

(b) **Records Not Classified Before July 1, 1969.** All records not classified prior to July 1, 1969, are subject to the same review and classification as in (a). If such records are three or more years old and classified as Class 3—Disposable they may be destroyed without further delay, but in accordance with Article 3.

(c) **Current Year Records.** Records originating during a current school year shall not be classified during that year.

(d) **Continuing Records.** Records of a continuing nature, i.e., active and useful for administrative, legal, fiscal, or other purposes over a period of years, shall not be classified until such usefulness has

ceased. A pupil's cumulative record, if not transferred, is a continuing record until the pupil ceases to be enrolled in the district.

(e) **Microfilm Copy.** Whenever an original record is photographed, microphotographed, or otherwise reproduced on film, the copy thus made is hereby classified as Class 1—Permanent. The original record, unless classified as Class 2—Optional, may be classified as Class 3—Disposable and may then be destroyed in accordance with this chapter if the following conditions have been met:

(1) The reproduction was accurate in detail and on film of a type approved for permanent, photographic records by the United States Bureau of Standards.

(2) The superintendent has attached to or incorporated in the microfilm copy his signed and dated certification of compliance with the provisions of Section 1531 of the Evidence Code.

(3) The microfilm copy was placed in a conveniently accessible file, and provision was made for preserving permanently, examining and using same.

Article 2. Period of Retention

16023. Class 1—Permanent Records. The original of each of the records listed in this section, or one exact copy thereof when the original is required by law to be filed with another agency, is a Class 1—Permanent record and shall be retained indefinitely, unless microfilmed in accordance with Section 16022(e).

(a) **Annual Reports.**

(1) Official budget.

(2) Financial report of all funds, including cafeteria and student body funds.

(3) Audit of all funds.

(4) Average daily attendance, including Period 1 and Period 2 reports.

(5) Other major annual reports, including:

(A) Those containing information relating to property, activities, financial condition, or transactions.

(B) Those declared by board minutes to be permanent.

(b) **Official Actions.**

(1) **Minutes of the Board or Committees Thereof,** including the text of a rule, regulation, policy, or resolution not set forth verbatim in the minutes but included therein by reference only.

(2) **Elections,** including the call, if any, for and the result (but not including detail documents, such as ballots) of an election called, conducted or canvassed by the governing board for a board member, his recall, issuance of bonds, incurring any long-term liability, change in maximum tax rates, reorganization, or any other purpose.

(3) **Records transmitted by another agency** that pertain to that agency's action with respect to district reorganization.

(c) **Personnel Records.**

(1) **Employees.** All detail records relating to employment, assignment, amounts and dates of service rendered, termination or dismissal of an employee in any position, sick leave record, rate of compensation, salaries or wages paid, deductions or withholdings made and the person or agency to whom such amounts were paid. In lieu of the detail records, a complete proven summary payroll record for every employee of the school district containing the same data may be classified as Class 1—Permanent, and the detail records may then be classified as Class 3—Disposable.

(2) **Pupils.**

(A) The records of enrollment and scholarship for each pupil required by Section 432.

(B) All records pertaining to any accident or injury involving a minor for which a claim for damages has been filed as required by law, including any policy of liability insurance relating thereto, except that these records cease to be Class 1—Permanent records one year after the claim has been settled or the statute of limitations has run.

(d) **Property Records.** All detail records relating to land, buildings, and equipment. In lieu of such detail records, a complete property ledger may be classified as Class 1—Permanent, and the detail records may then be classified as Class 3—Disposable, if the property ledger includes:

(1) All fixed assets.
(2) An equipment inventory.
(3) For each unit of property, the date of acquisition or augmentation, the person from whom acquired, an adequate description or identification, and the amount paid, and comparable data if the unit is disposed of by sale, loss, or otherwise.

16024. Class 2—Optional Records. Any record worthy of further preservation but not classified as Class 1—Permanent may be classified as Class 2—Optional and shall then be retained until reclassified as Class 3—Disposable. If the superintendent and governing board agree that classification should not be made by the time specified in Section 16022, all records of the prior year may be classified as Class 2—Optional pending further review and classification within one year.

16025. Class 3—Disposable Records. All records not classified as Class 1—Permanent or Class 2—Optional shall be classified as Class 3—Disposable, including but not limited to detail records relating to:

(a) **Records Basic to Audit,** including those relating to attendance, average daily attendance, or a business or financial transaction (purchase orders, invoices, warrants, ledger sheets, cancelled checks and stubs, student body and cafeteria fund records, etc.), and detail records used in the preparation of any other report. Teachers' registers may be classified as Class 3—Disposable only if all information required in Section 432 is retained in other records or if the General Record pages are removed from the register and are classified as Class 1—Permanent.

(b) **Periodic Reports,** including daily, weekly, and monthly reports, bulletins and instructions.

16026. Retention Period. A Class 3—Disposable record shall not be destroyed until after the second July 1 succeeding the completion of the audit required by Education Code Section 17206 or of any other legally required audit, or after the ending date of any retention period required by any agency other than the State of California, whichever date is later.

A continuing record shall not be destroyed until the third year after it has been classified as Class 3—Disposable.

16027. Destruction of Records. Unless otherwise specified in this chapter, all Class 3—Disposable records shall be destroyed during the third school year after the school year in which they originated (e.g., 1966–67 plus 3 = 1969–70).

16028. Transfer of Records. The only records that may be transferred are:

(a) **Cumulative Records.** A pupil's cumulative record may be transferred in accordance with Section 438. The items of information required to be kept permanently by Section 432 shall be included, by copy or otherwise, in the cumulative record when it is transferred, but the record of such items shall also be retained in the district.

(b) **Record of Enrollment and Scholarship.** Records specified in Section 432 may be transferred to the office of the principal of any new school upon discontinuance of a school or to the central office of the district.

(c) **Class 3—Disposable Record.** Any Class 3—Disposable record requested by the Historian of the State Archieves shall be transferred to him.

Article 3. Steps in Destruction

16029. Superintendent Actions. (a) **Classification.** The superintendent shall personally supervise the classification of records. He shall be responsible for, but he may delegate to any person, any other duties described in (b).

(b) **Listing.** The superintendent shall:

(1) Classify each record.

(2) Mark each file or other container as to class and the school year in which the records originated. If the records are classified as Class 3—Disposable, he shall also mark the school year in which they are to be destroyed.

(3) List for each class, by year, the general description and approximate number of items of each kind.

(4) Place a copy of the appropriate list in each container, as well as in the current or continuing file.

(5) At least 60 days before the date of proposed destruction, send a copy of the list of Class 3—Disposable records to the Historian, State Archives, Office of the Secretary of State, Sacramento, California.

(6) At the same time, submit to the governing board one copy of the list for each class and certify that no records are included in the lists in conflict with these regulations.

(7) Recommend that listed records in each class be retained, transferred to the State Historian, if requested, or destroyed as provided in this chapter.

(8) Retain, transfer to the State Historian, or destroy records only as approved and ordered in the minutes of the governing board.

16030. Board Action. The governing board shall:

(a) Approve or disapprove the recommendation of the Superintendent.

(b) Order a reclassification when necessary or desirable.

(c) Order by action recorded in the minutes (with lists attached), the retention, transfer to the State Historian, or destruction of records in accordance with these regulations.

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